

REMARKS

Claim 4 has been canceled. Claims 1, 3, 5, 21, and 25 through 27 have been amended. Claims 1 through 3 and 5 through 27 remain in the application.

The Abstract of the Disclosure was objected to because it uses legal phraseology. The Abstract of the Disclosure has been amended to eliminate any legal phraseology. It is respectfully submitted that the Abstract of the Disclosure is allowable over the objection.

Claim 26 was objected to because of an informality in its dependency. Claim 26 has been amended to depend from claim 25. It is respectfully submitted that claim 26 is allowable over the objection.

Claims 3 and 4 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection.

Claim 4 has been canceled and the rejection as to this claim is now moot. As to claim 3, claim 3 has been amended to change “support means” to “support member”. It is respectfully submitted that the claim 3 is allowable over the rejection under 35 U.S.C. § 112, second paragraph.

Claims 6 through 20 and 26 were objected to as being dependent upon a rejected base claim would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant would like to thank the Examiner for his indication of the allowance of these claims. However, Applicant has amended the independent claims to clarify the claimed invention over the art to make all the claims allowable.

Claims 1 through 5, 21, 25, and 27 were rejected under 35 U.S.C. § 102(b) as being anticipated by Masini (U.S. Patent Publication No. 2002/0095217). Applicant respectfully traverses this rejection.

U.S. Patent Publication No. 2002/0095217 to Masini discloses an apparatus for positioning a prosthetic component prior to cement injection. In the event that the prosthesis includes an arrangement to assist in installation or removal such as ring 350, the alternative proximal stabilization configuration of FIG. 4 may be used. To further assist in proximal securement, a multiple degree-of-freedom clamp arrangement illustrated generally at 404 may be attached to a proximal cover 406 secured to femoral end or attached to a portion of available bone material by whatever means. In the embodiment shown, a first rod 408 securely affixed to the member 406 at point 409, onto which there is disposed a slidable collar 412 which may be locked into position with a suitable device such as thumb screw 414. A second rod 420 and collar 422 contains two thumb screws, one to lock the collar 422 in position along rod 420, and a different thumb screw 430 for positive engagement with the prosthesis proper. Masini does not disclose an arm pivotally connected to a support member for rotation about an axis which lies in a plane which is spaced from and parallel to a plane of a base and an actuating member which is operable to cause rotation of the arm about the axis so that the arm exerts a clamping force on the implant which is substantially perpendicular to the plane of the base.

In contradistinction, claim 1, as amended, clarifies the invention claimed as an implant clamp for clamping an implant having a generally planar base to a complementary surface formed on a bone. The clamp includes a support member and means for coupling the support member to the bone. The clamp also includes an arm pivotally connected to the support member for rotation about an axis which lies in a plane which is spaced from and parallel to the plane of the base. The clamp further includes an actuating member which is operable to cause rotation of the arm about the axis so that the arm exerts a clamping force on the implant which is substantially perpendicular to the plane of the base. Claims 25 and 27 have been amended similar to claim 1 and include other features of the present invention.

A rejection grounded on anticipation under 35 U.S.C. § 102 is proper only where the subject matter claimed is identically disclosed or described in a reference. In other words, anticipation requires the presence of a single prior art reference which discloses each and every element of the claimed invention arranged as in the claim. In re Arkley, 455 F.2d 586, 172 U.S.P.Q. 524 (C.C.P.A. 1972); Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983); Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481 (Fed. Cir. 1984).

Masini '217 does not disclose or anticipate the present invention of claims 1, 25, and 27. Specifically, Masini '217 merely discloses an apparatus for positioning a prosthetic component prior to cement injection having a multiple degree-of-freedom clamp arrangement with a first rod, onto which there is disposed a slidable collar which may be locked into position with a thumb screw, a second rod, and collar containing two thumb screws, one to lock the collar in position along rod, and a different thumb screw for positive engagement with the prosthesis proper. Masini '217 lacks an arm pivotally connected to a support member for rotation about an axis which lies in a plane which is spaced from and parallel to a plane of a base and an actuating member which is operable to cause rotation of the arm about the axis so that the arm exerts a clamping force on the implant which is substantially perpendicular to the plane of the base. In Masini '217, there is a collar 422 which is adjustable in position on a rod 420. The collar includes a thumb screw 430 which engages the bone. The physical arrangement of Masini '217 is clearly quite different and there is simply nothing in Masini '217 that corresponds to the pivotal arm and actuating member as defined in claim 1.

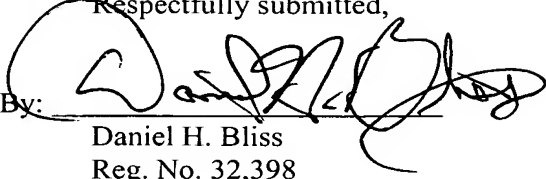
Masini '217 discloses a device which is entirely different in operation to Applicant's invention. It is submitted that there is no arm in Masini '217 which is comparable to the arm defined in claim 1. In this respect, it is noted that claim 1 defines that

the arm is pivotally connected to the support member. There is no arm pivotally connected to the support member in Masini '217. Claim 1 further defines that the arm exerts a force on the implant, which is substantially perpendicular to the base of the implant. Again, there is no component in Masini '217 that satisfies this requirement.

Notwithstanding these significant differences, claim 1 has been amended to further distinguish the claimed invention from Masini '217. In this respect, the Examiner should note that claim 1 refers to an implant clamp for clamping an implant having a generally planar base to a complementary surface formed on a bone. No corresponding component can be identified in Masini '217. Claim 1, as amended, further defines that the arm is pivotally connected to the support member for rotation about an axis that lies in a plane that is spaced from and parallel to the base of the plane. This is based on the disclosure in relation to Figure 5 where it can be seen that the pivot shaft 20 is adjustable in position relative to the flat bone surface 4 and is parallel to the surface 4, see page 7, line 20. The clamping force is applied via a pressure applying member 48 which is pivotally connected to the end of the arm 16 so that the clamping force will be essentially perpendicular to the bone surface 4, as described at page 8, lines 23 through 25.

Masini '803 fails to disclose the combination of an implant clamp for clamping an implant having a generally planar base to a complementary surface formed on a bone including a support member, means for coupling the support member to the bone, an arm pivotally connected to the support member for rotation about an axis which lies in a plane which is spaced from and parallel to the plane of the base, and an actuating member which is operable to cause rotation of the arm about the axis so that the arm exerts a clamping force on the implant which is substantially perpendicular to the plane of the base as claimed by Applicant. Therefore, it is respectfully submitted that claims 1, 25, and 27 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 102(b).

Based on the above, it is respectfully submitted that the claims are in a condition for allowance, which allowance is solicited.

Respectfully submitted,

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